

WELFARE AND INSTITUTIONS CODE

**DIVISION 4.5. SERVICES FOR THE DEVELOPMENTALLY DISABLED
CHAPTER 1. GENERAL PROVISIONS**

4514. All information and records obtained in the course of providing intake, assessment, and services under Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100) to persons with developmental disabilities shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons, whether employed by a regional center or state developmental center, or not, in the provision of intake, assessment, and services or appropriate referrals. The consent of the person with a developmental disability, or his or her guardian or conservator, shall be obtained before information or records may be disclosed by regional center or state developmental center personnel to a professional not employed by the regional center or state developmental center, or a program not vendored by a regional center or state developmental center.

(b) When the person with a developmental disability, who has the capacity to give informed consent, designates individuals to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, marriage, family, and child counselor, nurse, attorney, or other professional to reveal information which has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(c) To the extent necessary for a claim, or for a claim or application to be made on behalf of a person with a developmental disability for aid, insurance, government benefit, or medical assistance to which he or she may be entitled.

(d) If the person with a developmental disability is a minor, ward, or conservatee, and his or her parent, guardian, conservator, or limited conservator with access to confidential records, designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, marriage, family, and child counselor, nurse, attorney, or other professional to reveal information which has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(e) For research, provided that the Director of Developmental Services designates by regulation rules for the conduct of research and requires the research to be first reviewed by the appropriate institutional review board or boards. These rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

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Date

As a condition of doing research concerning persons with developmental disabilities who have received services from _____ (fill in the facility, agency or person), I, _____, agree to obtain the prior informed consent of persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, or the person's parent, guardian, or conservator, and I further agree not to divulge any information obtained in the course of the research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services so those persons who received services are identifiable. I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

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Signed

- (f) To the courts, as necessary to the administration of justice.
- (g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.
- (h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by the committee.
- (i) To the courts and designated parties as part of a regional center report or assessment in compliance with a statutory or regulatory requirement, including, but not limited to, Section 1827.5 of the Probate Code, Sections 1001.22 and 1370.1 of the Penal Code, Section 6502 of the Welfare and Institutions Code, and Section 56557 of Title 17 of the California Code of Regulations.
- (j) To the attorney for the person with a developmental disability in any and all proceedings upon presentation of a release of information signed by the person, except that when the person lacks the capacity to give informed consent, the regional center or state developmental center director or designee, upon satisfying himself or herself of the identity of the attorney, and of the fact that the attorney represents the person, shall release all information and records relating to the person except that nothing in this article shall be construed to compel a physician, psychologist, social worker, marriage, family, and child counselor, nurse, attorney, or other professional to reveal information which has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.
- (k) Upon written consent by a person with a developmental disability previously or presently receiving services from a regional center or state developmental center, the director of the regional center or state developmental center, or his or her designee, may release any information, except information which has been given in confidence by members of the family of the person with developmental disabilities, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the regional center or state developmental center director or designee determines that the information is relevant to the evaluation. The consent shall only be operative until sentence is passed on the crime of which the person was convicted. The

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confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(l) Between persons who are trained and qualified to serve on "multidisciplinary personnel" teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) When a person with a developmental disability dies from any cause, natural or otherwise, while hospitalized in a state developmental center, the State Department of Developmental Services, the physician in charge of the client, or the professional in charge of the facility or his or her designee, shall release information and records to the coroner. The State Department of Developmental Services, the physician in charge of the client, or the professional in charge of the facility or his or her designee, shall not release any notes, summaries, transcripts, tapes, or records of conversations between the resident and health professional personnel of the hospital relating to the personal life of the resident which is not related to the diagnosis and treatment of the resident's physical condition. Any information released to the coroner pursuant to this section shall remain confidential and shall be sealed and shall not be made part of the public record.

(n) To authorized licensing personnel who are employed by, or who are authorized representatives of, the State Department of Health Services, and who are licensed or registered health professionals, and to authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of, the State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate health facilities and community care facilities, and to ensure that the standards of care and services provided in such facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facility is subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 2 (commencing with Section 1250) and Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Health Services or the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names which are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Health Services or the State Department of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of

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Health Services or the State Department of Social Services shall not contain the name of the person with a developmental disability.

(o) To any board which licenses and certifies professionals in the fields of mental health and developmental disabilities pursuant to state law, when the Director of Developmental Services has reasonable cause to believe that there has occurred a violation of any provision of law subject to the jurisdiction of a board and the records are relevant to the violation. The information shall be sealed after a decision is reached in the matter of the suspected violation, and shall not subsequently be released except in accordance with this subdivision. Confidential information in the possession of the board shall not contain the name of the person with a developmental disability.

(p) To governmental law enforcement agencies by the director of a regional center or state developmental center, or his or her designee, when (1) the person with a developmental disability has been reported lost or missing; or (2) there is probable cause to believe that a person with a developmental disability has committed, or has been the victim of, murder, manslaughter, mayhem, aggravated mayhem, kidnapping, robbery, carjacking, assault with the intent to commit a felony, arson, extortion, rape, forcible sodomy, forcible oral copulation, assault or battery, or unlawful possession of a weapon, as provided in Section 12020 of the Penal Code. This subdivision shall be limited solely to information directly relating to the factual circumstances of the commission of the enumerated offenses and shall not include any information relating to the mental state of the patient or the circumstances of his or her treatment unless relevant to the crime involved. This subdivision shall not be construed as an exception to, or in any other way affecting, the provisions of Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code, or Chapter 11 (commencing with Section 15600) and Chapter 13 (commencing with Section 15750) of Part 3 of Division 9.

(q) To the Youth Authority and Adult Correctional Agency or any component thereof, as necessary to the administration of justice.

(r) To an agency mandated to investigate a report of abuse filed pursuant to either Section 11164 of the Penal Code or Section 15630 of the Welfare and Institutions Code for the purposes of either a mandated or voluntary report or when those agencies request information in the course of conducting their investigation.

(s) When a person with developmental disabilities, or the parent, guardian, or conservator of a person with developmental disabilities who lacks capacity to consent, fails to grant or deny a request by a regional center or state developmental center to release information or records relating to the person with developmental disabilities within a reasonable period of time, the director of the regional or developmental center, or his or her designee, may release information or records on behalf of that person provided both of the following conditions are met:

(1) Release of the information or records is deemed necessary to protect the person's health, safety, or welfare.

(2) The person, or the person's parent, guardian, or conservator, has been advised annually in writing of the policy of the regional center or state developmental center for release of confidential client information or records when the person with developmental disabilities, or the person's parent, guardian, or conservator, fails to respond to a request for release of the information or records within a reasonable period of time. A

statement of policy contained in the client's individual program plan shall be deemed to comply with the notice requirement of this paragraph.

4514.3. (a) Notwithstanding Section 4514, information and records may be disclosed to the protection and advocacy agency designated by the Governor in this state to fulfill the requirements and assurances of the federal Developmental Disabilities Assistance and Bill of Rights Act, contained in Chapter 75 (commencing with Section 6000) of Title 42 of the United States Code, for the protection and advocacy of the rights of persons with developmental disabilities, as defined in Section 6001(5) of Title 42 of the United States Code.

(b) Access to information and records to which subdivision (a) applies shall be in accord with Division 4.7 (commencing with Section 4900).

4514.5. Upon request of a family member of a resident of a state hospital, community care facility, or health facility, or other person designated by the resident, the facility shall give such family member or the designee notification of the resident's presence in the facility, the transfer, the diagnosis, the prognosis, the medications prescribed, the side effects of medications prescribed, if any, the progress of the resident, and the serious illness of the resident, if, after notification of the resident that such information is requested, the resident authorizes such disclosure. If, when initially informed of the request for notification, the resident is unable to authorize the release of such information, notation of the attempt shall be made into the resident's treatment record, and daily efforts shall be made to secure the resident's consent or refusal of such authorization. However, if a request for information is made by the spouse, parent, child, or sibling of the resident and the resident is unable to authorize the release of such information, such requester shall be given notification of the resident's presence in the facility, except to the extent prohibited by federal law. Upon request of a family member of a resident or the designee, the facility shall notify such family member or designee of the release or death of the resident. Nothing in this section shall be construed to require photocopying of the resident's medical records in order to satisfy its provisions.

4515. Signed consent forms by a person with a developmental disability or, where appropriate, the parent, guardian, or conservator, for release of any information to which such person consents under the provision of Sections 11878 or 11879 of the Health and Safety Code, or subdivision (a) or (d) of Section 4514 shall be obtained for each separate use with the use specified, the information to be released, the name of the agency or individual to whom information will be released indicated on the form and the name of the responsible individual who has authorization to release information specified. Any use of this form shall be noted in the file of the person with developmental disabilities. Persons who sign consent forms shall be given a copy of the consent forms signed.

4516. When any disclosure of information or records is made as authorized by the provisions of subdivision (a), (d), or (q) of Section 4514 or Section 4514.5, the physician in charge of the person with a developmental disability or the professional in charge of

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the facility shall promptly cause to be entered into the person's medical record the date and circumstances under which such disclosure was made, the names and relationships to the person, if any, of individuals or agencies to whom such disclosure was made, and the specific information disclosed.

4517. Nothing in this chapter shall be construed to prohibit the compilation and publication of statistical data for use by government or researchers and standards set by the Director of Developmental Services.

4518. Any person may bring an action against an individual who has willfully and knowingly released confidential information or records concerning him or her in violation of the provisions of this chapter, or of Chapter 1 (commencing with Section 11860) of Part 3 of Division 10.5 of the Health and Safety Code, for the greater of the following amounts:

(1) Five hundred dollars (\$500).

(2) Three times the amount of actual damages, if any, sustained by the plaintiff.

Any person may, in accordance with the provisions of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, bring an action to enjoin the release of confidential information or records in violation of the provisions of this chapter, and may in the same action seek damages as provided in this section.

It is not a prerequisite to an action under this section that the plaintiff suffer or be threatened with actual damages.

DIVISION 5. COMMUNITY MENTAL HEALTH SERVICES
PART 1. THE LANTERMAN-PETRIS-SHORT ACT
CHAPTER 1. GENERAL PROVISIONS

5008.2. (a) When applying the definition of mental disorder for the purposes of Articles 2 (commencing with Section 5200), 4 (commencing with Section 5250), and 5 (commencing with Section 5275) of Chapter 2 and Chapter 3 (commencing with Section 5350), the historical course of the person's mental disorder, as determined by available relevant information about the course of the person's mental disorder, shall be considered when it has a direct bearing on the determination of whether the person is a danger to others, or to himself or herself, or is gravely disabled, as a result of a mental disorder. The historical course shall include, but is not limited to, evidence presented by persons who have provided, or are providing, mental health or related support services to the patient, the patient's medical records as presented to the court, including psychiatric records, or evidence voluntarily presented by family members, the patient, or any other person designated by the patient. Facilities shall make every reasonable effort to make information provided by the patient's family available to the court. The hearing officer, court, or jury shall exclude from consideration evidence it determines to be irrelevant because of remoteness of time or dissimilarity of circumstances.

(b) This section shall not be applied to limit the application of Section 5328 or to limit existing rights of a patient to respond to evidence presented to the court.

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5012. The fact that a person has been taken into custody under this part may not be used in the determination of that person's eligibility for payment or reimbursement for mental health or other health care services for which he or she has applied or received under the Medi-Cal program, any health care service plan licensed under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code), or any insurer providing health coverage doing business in the state.

CHAPTER 2. INVOLUNTARY TREATMENT

Article 1. Detention of Mentally Disordered Persons for Evaluation and Treatment

5150.05. (a) When determining if probable cause exists to take a person into custody, or cause a person to be taken into custody, pursuant to Section 5150, any person who is authorized to take that person, or cause that person to be taken, into custody pursuant to that section shall consider available relevant information about the historical course of the person's mental disorder if the authorized person determines that the information has a reasonable bearing on the determination as to whether the person is a danger to others, or to himself or herself, or is gravely disabled as a result of the mental disorder.

(b) For purposes of this section, "information about the historical course of the person's mental disorder" includes evidence presented by the person who has provided or is providing mental health or related support services to the person subject to a determination described in subdivision (a), evidence presented by one or more members of the family of that person, and evidence presented by the person subject to a determination described in subdivision (a) or anyone designated by that person.

(c) If the probable cause in subdivision (a) is based on the statement of a person other than the one authorized to take the person into custody pursuant to Section 5150, a member of the attending staff, or a professional person, the person making the statement shall be liable in a civil action for intentionally giving any statement that he or she knows to be false.

(d) This section shall not be applied to limit the application of Section 5328.

CHAPTER 2. INVOLUNTARY TREATMENT

Article 7. Legal and Civil Rights of Persons Involuntarily Detained

5326.1. Quarterly, each local mental health director shall furnish to the Director of Mental Health, the facility reports of the number of persons whose rights were denied and the right or rights which were denied. The content of the reports from facilities shall enable the local mental health director and Director of Mental Health to identify individual treatment records, if necessary, for further analysis and investigation. These quarterly reports, except for the identity of the person whose rights are denied, shall be available, upon request, to Members of the State Legislature, or a member of a county board of supervisors.

Notwithstanding any other provision of law, information pertaining to denial of rights contained in the person's treatment record shall be made available, on request, to the person, his or her attorney, his or her conservator or guardian, the local mental health

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director, or his or her designee, or the Patient's Rights Office of the State Department of Mental Health. The information may include consent forms, required documentation for convulsive treatment, documentation regarding the use of restraints and seclusion, physician's orders, nursing notes, and involuntary detention and conservatorship papers. The information, except for the identity of the person whose rights are denied, shall be made available to the Members of the State Legislature or a member of a county board of supervisors.

5328. All information and records obtained in the course of providing services under Division 4 (commencing with Section 4000), Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100), to either voluntary or involuntary recipients of services shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons in the provision of services or appropriate referrals, or in the course of conservatorship proceedings. The consent of the patient, or his or her guardian or conservator shall be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person not employed by the facility who does not have the medical or psychological responsibility for the patient's care.

(b) When the patient, with the approval of the physician, licensed psychologist, social worker with a master's degree in social work, or licensed marriage and family therapist, who is in charge of the patient, designates persons to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, licensed psychologist, social worker with a master's degree in social work, licensed marriage and family therapist, nurse, attorney, or other professional person to reveal information that has been given to him or her in confidence by members of a patient's family. Nothing in this subdivision shall be construed to authorize a licensed marriage and family therapist to provide services or to be in charge of a patient's care beyond his or her lawful scope of practice.

(c) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(d) If the recipient of services is a minor, ward, or conservatee, and his or her parent, guardian, guardian ad litem, or conservator designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, licensed psychologist, social worker with a master's degree in social work, licensed marriage and family therapist, nurse, attorney, or other professional person to reveal information that has been given to him or her in confidence by members of a patient's family.

(e) For research, provided that the Director of Mental Health or the Director of Developmental Services designates by regulation, rules for the conduct of research and requires the research to be first reviewed by the appropriate institutional review board or

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boards. The rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

Date

As a condition of doing research concerning persons who have received services from _____ (fill in the facility, agency or person), I, _____, agree to obtain the prior informed consent of such persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, and I further agree not to divulge any information obtained in the course of such research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services such that the person who received services is identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

- (f) To the courts, as necessary to the administration of justice.
- (g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.
- (h) To the Committee on Senate Rules or the Committee on Assembly Rules for the purposes of legislative investigation authorized by the committee.
- (i) If the recipient of services who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.
- (j) To the attorney for the patient in any and all proceedings upon presentation of a release of information signed by the patient, except that when the patient is unable to sign the release, the staff of the facility, upon satisfying itself of the identity of the attorney, and of the fact that the attorney does represent the interests of the patient, may release all information and records relating to the patient except that nothing in this article shall be construed to compel a physician, licensed psychologist, social worker with a master's degree in social work, licensed marriage and family therapist, nurse, attorney, or other professional person to reveal information that has been given to him or her in confidence by members of a patient's family.
- (k) Upon written agreement by a person previously confined in or otherwise treated by a facility, the professional person in charge of the facility or his or her designee may release any information, except information that has been given in confidence by members of the person's family, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the professional person in charge of the facility determines that the information is relevant to the evaluation. The agreement shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.
- (l) Between persons who are trained and qualified to serve on "multidisciplinary personnel" teams pursuant to subdivision (d) of Section 18951. The information and

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records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) To county patients' rights advocates who have been given knowing voluntary authorization by a client or a guardian ad litem. The client or guardian ad litem, whoever entered into the agreement, may revoke the authorization at any time, either in writing or by oral declaration to an approved advocate.

(n) To a committee established in compliance with Sections 4070 and 5624.

(o) In providing information as described in Section 7325.5. Nothing in this subdivision shall permit the release of any information other than that described in Section 7325.5.

(p) To the county mental health director or the director's designee, or to a law enforcement officer, or to the person designated by a law enforcement agency, pursuant to Sections 5152.1 and 5250.1.

(q) If the patient gives his or her consent, information specifically pertaining to the existence of genetically handicapping conditions, as defined in Section 341.5 of the Health and Safety Code, may be released to qualified professional persons for purposes of genetic counseling for blood relatives upon request of the blood relative. For purposes of this subdivision, "qualified professional persons" means those persons with the qualifications necessary to carry out the genetic counseling duties under this subdivision as determined by the genetic disease unit established in the State Department of Health Services under Section 309 of the Health and Safety Code. If the patient does not respond or cannot respond to a request for permission to release information pursuant to this subdivision after reasonable attempts have been made over a two-week period to get a response, the information may be released upon request of the blood relative.

(r) When the patient, in the opinion of his or her psychotherapist, presents a serious danger of violence to a reasonably foreseeable victim or victims, then any of the information or records specified in this section may be released to that person or persons and to law enforcement agencies as the psychotherapist determines is needed for the protection of that person or persons. For purposes of this subdivision, "psychotherapist" means anyone so defined within Section 1010 of the Evidence Code.

(s) To persons serving on an interagency case management council established in compliance with Section 5606.6 to the extent necessary to perform its duties. This council shall attempt to obtain the consent of the client. If this consent is not given by the client, the council shall justify in the client's chart why these records are necessary for the work of the council.

(t)(1) To the designated officer of an emergency response employee, and from that designated officer to an emergency response employee regarding possible exposure to HIV or AIDS, but only to the extent necessary to comply with provisions of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (P.L. 101-381; 42 U.S.C. Sec. 201).

(2) For purposes of this subdivision, "designated officer" and "emergency response employee" have the same meaning as these terms are used in the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (P.L. 101-381; 42 U.S.C. Sec. 201).

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(3) The designated officer shall be subject to the confidentiality requirements specified in Section 120980, and may be personally liable for unauthorized release of any identifying information about the HIV results. Further, the designated officer shall inform the exposed emergency response employee that the employee is also subject to the confidentiality requirements specified in Section 120980, and may be personally liable for unauthorized release of any identifying information about the HIV test results.

(u) (1) To a law enforcement officer who personally lodges with a facility, as defined in paragraph (2), a warrant of arrest or an abstract of such a warrant showing that the person sought is wanted for a serious felony, as defined in Section 1192.7 of the Penal Code, or a violent felony, as defined in Section 667.5 of the Penal Code. The information sought and released shall be limited to whether or not the person named in the arrest warrant is presently confined in the facility. This paragraph shall be implemented with minimum disruption to health facility operations and patients, in accordance with Section 5212. If the law enforcement officer is informed that the person named in the warrant is confined in the facility, the officer may not enter the facility to arrest the person without obtaining a valid search warrant or the permission of staff of the facility.

(2) For purposes of paragraph (1), a facility means all of the following:

(A) A state hospital, as defined in Section 4001.

(B) A general acute care hospital, as defined in subdivision (a) of Section 1250 of the Health and Safety Code, solely with regard to information pertaining to a mentally disordered person subject to this section.

(C) An acute psychiatric hospital, as defined in subdivision (b) of Section 1250 of the Health and Safety Code.

(D) A psychiatric health facility, as described in Section 1250.2 of the Health and Safety Code.

(E) A mental health rehabilitation center, as described in Section 5675.

(F) A skilled nursing facility with a special treatment program for chronically mentally disordered patients, as described in Sections 51335 and 72445 to 72475, inclusive, of Title 22 of the California Code of Regulations.

(v) The amendment of subdivision (d) enacted at the 1970 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the preexisting law.

(w) This section shall not be limited by Section 5150.05 or 5332.

5332. (a) Antipsychotic medication, as defined in subdivision (l) of Section 5008, may be administered to any person subject to detention pursuant to Section 5150, 5250, 5260, or 5270.15, if that person does not refuse that medication following disclosure of the right to refuse medication as well as information required to be given to persons pursuant to subdivision (c) of Section 5152 and subdivision (b) of Section 5213.

(b) If any person subject to detention pursuant to Section 5150, 5250, 5260, or 5270.15, and for whom antipsychotic medication has been prescribed, orally refuses or gives other indication of refusal of treatment with that medication, the medication shall be administered only when treatment staff have considered and determined that treatment alternatives to involuntary medication are unlikely to meet the needs of the

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patient, and upon a determination of that person's incapacity to refuse the treatment, in a hearing held for that purpose.

(c) Each hospital in conjunction with the hospital medical staff or any other treatment facility in conjunction with its clinical staff shall develop internal procedures for facilitating the filing of petitions for capacity hearings and other activities required pursuant to this chapter.

(d) When any person is subject to detention pursuant to Section 5150, 5250, 5260, or 5270.15, the agency or facility providing the treatment shall acquire the person's medication history, if possible.

(e) In the case of an emergency, as defined in subdivision (m) of Section 5008, a person detained pursuant to Section 5150, 5250, 5260, or 5270.15 may be treated with antipsychotic medication over his or her objection prior to a capacity hearing, but only with antipsychotic medication that is required to treat the emergency condition, which shall be provided in the manner least restrictive to the personal liberty of the patient. It is not necessary for harm to take place or become unavoidable prior to intervention.

5330. (a) Any person may bring an action against an individual who has willfully and knowingly released confidential information or records concerning him or her in violation of this chapter, or of Chapter 1 (commencing with Section 11860) of Part 3 of Division 10.5 of the Health and Safety Code, for the greater of the following amounts:

(1) Ten thousand dollars (\$10,000).

(2) Three times the amount of actual damages, if any, sustained by the plaintiff.

(b) Any person may bring an action against an individual who has negligently released confidential information or records concerning him or her in violation of this chapter, or of Chapter 1 (commencing with Section 11860) of Part 3 of Division 10.5 of the Health and Safety Code, for both of the following:

(1) One thousand dollars (\$1,000). In order to recover under this paragraph, it shall not be a prerequisite that the plaintiff suffer or be threatened with actual damages.

(2) The amount of actual damages, if any, sustained by the plaintiff.

(c) Any person may, in accordance with Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, bring an action to enjoin the release of confidential information or records in violation of this chapter, and may in the same action seek damages as provided in this section.

(d) In addition to the amounts specified in subdivisions (a) and (b), the plaintiff shall recover court costs and reasonable attorney's fees as determined by the court.

CHAPTER 6.2. MENTAL HEALTH ADVOCACY

Article 5. Access to Records

5540. Except as otherwise provided in this chapter or in other provisions of law, information about and records of recipients of mental health services shall be confidential in accordance with the provisions of Section 5328.

5541. (a) A specific authorization by the client or by the guardian ad litem is necessary for a county patients' rights advocate to have access to, copy or otherwise use

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confidential records or information pertaining to the client. Such an authorization shall be given knowingly and voluntarily by a client or guardian ad litem and shall be in writing or be reduced to writing. The client or the guardian ad litem, whoever has entered into the agreement, may revoke such authorization at any time, either in writing or by oral declaration to the advocate.

(b) When specifically authorized by the client or the guardian ad litem, the county patients' rights advocate may inspect and copy confidential client information and records.

5542. County patients' rights advocates shall have the right to inspect or copy, or both, any records or other materials not subject to confidentiality under Section 5328 or other provisions of law in the possession of any mental health program, services, or facilities, or city, county or state agencies relating to an investigation on behalf of a client or which indicate compliance or lack of compliance with laws and regulations governing patients' rights, including, but not limited to, reports on the use of restraints or seclusion, and autopsy reports.

5543. (a) Notwithstanding any other provision of law, with the authorization of the client, a county patients' rights advocate may, to the extent necessary for effective advocacy, communicate to the client information contained in client records. The facility program, or agency, shall be allowed to remove from the records any information provided in confidence by members of a client's family.

5544. Any written client information obtained by county patients' rights advocates may be used and disseminated in court or administrative proceedings, and to any public agencies, or authorized officials thereof, to the extent required in the providing of advocacy services defined in this chapter, and to the extent that authority to so disclose is obtained from the advocate's clients.

5545. Nothing in this chapter shall be construed to limit access to recipients of mental health services in any mental health facility, program, or service or to information or records of recipients of mental health services for the purposes of subdivision (b) of Section 5520 or when otherwise authorized by law to county patients' rights advocates or other individuals who are not county patients' rights advocates.

5546. The actual cost of copying any records or other materials authorized under this chapter, plus any additional reasonable clerical costs, incurred in locating and making the records and materials available, shall be borne by the advocate. The additional clerical costs shall be based on a computation of the time spent locating and making the records available multiplied by the employee's hourly wage.

PART 2. THE BRONZAN-MCCORQUODALE ACT
CHAPTER 1. GENERAL PROVISIONS

5610. (a) Each county mental health system shall comply with reporting requirements developed by the State Department of Mental Health which shall be uniform and

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simplified. The department shall review existing data requirements to eliminate unnecessary requirements and consolidate requirements which are necessary. These requirements shall provide comparability between counties in reports.

(b) The department shall develop, in consultation with the Performance Outcome Committee pursuant to Section 5611, and with the Health and Welfare Agency, uniform definitions and formats for a statewide, nonduplicative client-based information system that includes all information necessary to meet federal mental health grant requirements and state and federal medicaid reporting requirements, as well as any other state requirements established by law. The data system, including performance outcome measures reported pursuant to Section 5613, shall be developed by July 1, 1992.

(c) Unless determined necessary by the department to comply with federal law and regulations, the data system developed pursuant to subdivision (b) shall not be more costly than that in place during the 1990-91 fiscal year.

(d) (1) The department shall develop unique client identifiers that permit development of client-specific cost and outcome measures and related research and analysis.

(2) The department's collection and use of client information, and the development and use of client identifiers, shall be consistent with clients' constitutional and statutory rights to privacy and confidentiality.

(3) Data reported to the department may include name and other personal identifiers. That information is confidential and subject to Section 5328 and any other state and federal laws regarding confidential client information.

(4) Personal client identifiers reported to the department shall be protected to ensure confidentiality during transmission and storage through encryption and other appropriate means.

(5) Information reported to the department may be shared with local public mental health agencies submitting records for the same person and that information is subject to Section 5328.

(e) All client information reported to the department pursuant to Chapter 2 (commencing with Section 4030) of Part 1 of Division 4 and Sections 5328 to 5780, inclusive, and any other state and federal laws regarding reporting requirements, consistent with Section 5328, shall not be used for purposes other than those purposes expressly stated in the reporting requirements referred to in this subdivision.

(f) The department may adopt emergency regulations to implement this section in accordance with the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of emergency regulations to implement this section that are filed with the Office of Administrative Law within one year of the date on which the act that added this subdivision took effect shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare and shall remain in effect for no more than 180 days.